

# News Release



U.S. Department of Labor  
Office of Public Affairs  
Boston, Mass.  
05-948-NEW / BOS 2005-144

For Immediate Release  
Monday, June 6, 2005  
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## **Labor Department Sues Defunct Rochester, N.Y. Firm and Owner To Recover Delinquent Employee Contributions**

**NEW YORK** – The U.S. Department of Labor sued Project Solutions of Rochester Inc. and its owner for failure to forward \$37,932.14 in employee contributions owed to the company's 401(k) SIMPLE plan.

The lawsuit alleges that the company and owner Earl Shepherd violated the Employee Retirement Income Security Act (ERISA) by failing to remit to the plan all contributions deducted from employees' paychecks since September 2000. The suit, filed on May 23, 2005 in federal district court in Buffalo, New York, asks that Shepherd repay to the plan any losses with interest and waive his right to his account balance. Project Solutions would be required to return any illegal money received from the plan and both defendants would be barred from serving as fiduciaries to any ERISA-covered plan in the future.

Project Solutions, an information technology consulting firm, has ceased operations. The plan covered as many as 23 participants and held \$76,645 in assets as of Dec. 31, 2001.

"The law is clear. When a company sponsors a plan to benefit employees, it cannot use its assets for any other business purpose," said James Benages, director of the Boston regional office of the Employee Benefits Security Administration (EBSA).

Employers with similar problems, who are not yet the subject of an investigation by EBSA, may be eligible to participate in the department's Voluntary Fiduciary Correction Program (VFCP). Participation in the VFCP requires employers to correct violations of the law but allows them to avoid EBSA enforcement actions, civil penalties and any applicable excise taxes. For more information see [www.dol.gov/ebsa](http://www.dol.gov/ebsa).

Employers and workers can contact the Boston office at (617) 565-9600 or EBSA's toll free number, 1-866-444-EBSA (3272), for help with any problems relating to private-sector pension and health plans. In fiscal year 2004, EBSA achieved record monetary results of \$3.1 billion related to pension, 401(k), health and other benefits of millions of American workers and their families.

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(Chao v. Project Solutions of Rochester, Inc.)  
Civil Action No. 05-cv-6262 (LP)